

## **TITLE 4: BUSINESS AND SPECIAL LICENSES, REGULATIONS**

### **DIVISION 6: SOLID WASTE HANDLING FRANCHISES**

#### **Chapter 8: REPORTING REQUIREMENTS, FINANCIAL INFORMATION AND AUDIT RIGHTS.**

##### **Sections:**

- 46.081 General.
- 46.082 Disposal Tonnage Tracking.
- 46.083 Quarterly Reports.
- 46.084 Annual Reports.
- 46.085 Periodic Revenue, Cost and Expense Information.
- 46.086 Audited Financial Statements.
- 46.087 County Audit Rights.

##### **46.081 General.**

(a) Each Grantee shall keep, maintain, and furnish copies of such operating records and reports as may be requested by the Department to ascertain compliance with this Division. Such records include, but are not limited to, Grantee's records containing the underlying financial and operational data relating to its basis for, and computation of all costs associated with, providing the services required of it under its Franchise Agreement. The records required to be kept are not limited to the information necessary to provide the required reports. The Department reserves the right to request that additional information be provided to it, as necessary to meet its needs, including but not limited to the AB 939 reporting requirements.

(b) All information required to be kept, maintained or furnished to the County shall be maintained a minimum of seven (7) years after the entry of the most recent item therein;

(c) To the extent relevant to any report, all information included in the reports shall be provided according to the source of generation. Waste generator types are defined as follows:

(1) Residential - Solid Waste, Recyclable Material and Green Waste originating from single-family and from multi-residential units.

(2) Commercial/Industrial - Solid Waste, Recyclable Material and Green Waste from commercial and industrial sources.

(3) Construction/Temporary Bin/Rolloff - All Solid Waste or other materials placed in debris boxes.

(4) Cleanup - Solid Waste and other materials collected through the cleanups specified in Section 46.062(a) and (c).

(d) The Grantee's financial and accounting records required to be maintained under the provisions of this Division shall be maintained on an accrual basis in accordance with the most current edition of Generally Accepted Accounting Principles published by the American Institute of Certified Public Accountants. Unless inconsistent with Generally Accepted Accounting Principles, gross receipts must be recorded as revenues.

(e) Data and information pertaining to services performed under any Franchise Agreement become the property of the County upon submittal to the Department.

Adopted Ordinance #3670 (1996);

##### **46.082 Disposal Tonnage Tracking.**

Each month the Grantee shall complete the Multi-Jurisdiction Load Report forms provided by the Department and return the corrected information to the Department within ten (10) days of the date of the County's transmittal letter. The Grantee shall:

(a) Correct inaccurate source information collected from the driver of the refuse truck at each landfill.

(b) Amend split source and tonnage information, for Solid Waste loads from more than one community.

Adopted Ordinance #3670 (1996);

##### **46.083 Quarterly Reports.**

Except as otherwise directed in writing by the Director, each Grantee shall submit quarterly reports. A quarterly report is required to be submitted no later than thirty (30) days following the completion of the quarter to which it relates. The first report is due by and shall cover the period from the effective date of the Grantee's Franchise Agreement through the end of the quarter in which the Agreement first became operative. The quarterly reports shall include the information collected and summarized on a monthly basis. Specifically, Grantee shall provide the following quarterly reports:

(a) The Grantee shall provide a report that lists the quantity of solid waste collected by month and the number of accounts serviced monthly ("Collection information reports"). The quantities of Solid Waste, Recyclable Materials and Green Waste collected shall be reported in terms of tonnage (or cubic yards if tonnage information is not available). The Department may, at its discretion, also require reporting by volume. The Grantee shall clearly specify any assumptions, such as density factors, made in reporting the tonnage or cubic yard information.

(b) The Grantee shall provide a report summarizing the entries made in the service log including all commendations, complaints, and notifications of missed pickups, and the Grantee responses thereto ("Service performance report"). The summary report shall identify the total number of all written or oral subscriber comments and shall provide the number of comments received in the following categories: commendations, litter or property damage complaints, misplacement of containers, stolen containers, personnel complaints, missed pickups, and other.

(c) The Grantee shall submit a report summarizing the problems or barriers to implementation of services for the quarter ("Program implementation"). The report shall address how the problems and barriers were overcome or the proposed resolutions and schedule for correcting the problem.

(d) The Grantee shall submit a report summarizing the information relating to Gross Receipts, Gross Receipts Less Disposal Charges and service charge collections. To the extent permitted by applicable law, financial information submitted to the County by the Grantee pursuant to this subsection will be kept confidential and will be available to County personnel only on a need-to-know basis.

Adopted Ordinance #3670 (1996);

#### **46.084 Annual Reports.**

The Grantee shall submit reports to the Department, covering operations for each calendar year. Except as otherwise provided below, each such report shall be submitted to the Department no later than March 1 of the following year. The Grantee will be responsible for providing the following reports:

(a) The Grantee shall provide a summary of information contained in the quarterly reports required to be provided quarterly pursuant to Sections 46.083(a) and (c) ("Summary reports"). The Summary reports shall clearly indicate the diversion rate for each waste generation type. The diversion information provided shall include quantities of materials collected, and if processed by other than County Solid Waste Disposal System facilities, the quantities recycled and composted in tons (or cubic yards if tonnage information is not available) for each waste generator type. In the Summary report, the Grantee shall note unusual changes in disposal quantities and indicate potential reason(s) for this change. The Summary report shall include a discussion of noteworthy experiences, and any problems in program operation and how they were resolved.

(b) The Grantee shall provide a complete inventory of collection equipment and other major equipment which is or may be used in its operations ("Equipment inventory report").

(c) The Grantee shall prepare a report that identifies all future programs and facilities that may be needed but have not been planned for ("Future programs report").

(d) The Grantee shall submit declarations of the current status of all pending criminal or civil litigation against the Grantee and its parent company, if any, and all other subsidiaries of such parent company that may have an effect on the Grantee's ability to meet the obligations of its Agreement or provide a satisfactory level of service ("Litigation information report").

(e) Within 120 days following the close of Grantee's fiscal year, Grantee shall furnish a summary of the reports required to be provided quarterly pursuant to Section 46.083(d). The summary must be reviewed by the Grantee's independent Certified Public Accountant, in accordance with the standards of the accounting industry, and include the appropriate statement from said Accountant relative to his or her review.

(f) Within 120 days following the close of Grantee's fiscal year, Grantee shall organize, summarize and make available for review full and complete financial information, consistent with the preparation of the Grantee's financial statements, with respect to the operations necessary to provide the services required under its Franchise Agreement, including revenues, costs and expenses. Such information is not required to be certified by an independent Certified Public Accountant. The Grantee shall make the financial information available for the review by the Department, or its designee, at the local office of Grantee.

Adopted Ordinance #3670 (1996); Amended Ordinance #3673 (1996);

#### **46.085 Periodic Revenue, Cost and Expense Information.**

As soon as possible in advance of the negotiations on a proposed Franchise Agreement, and again at least three months prior to the date that a decision would be made under Section 46.031(d)(2) regarding the denial of an extension of the term of a Franchise Agreement, Grantee shall organize, summarize and make available for review full and complete financial information, consistent with the preparation of the Grantee's financial statements, with respect to the operations necessary to provide the services required under its Franchise Agreement, including revenues, costs and expenses. Such information is required to be certified by an independent Certified Public Accountant. The Grantee shall make the financial information available for the review by the Department, or its designee, at the local office of Grantee. Notwithstanding the foregoing, if Grantee and any company which is within a "controlled group of corporations" with Grantee (within the meaning of 26 U.S.C. Section 1563) have, in the aggregate, 15 or fewer full time employees; and Grantee petitions the Director that the cost of required certification would pose an undue hardship; the Director may waive the certification requirement and may, at Department expense, engage a Certified Public Account of his/her choice to conduct the necessary certification.

Adopted Ordinance #3670 (1996); Amended Ordinance #3673 (1996);

**46.086 Audited Financial Statements.**

Upon 120 days advance written notice by the Department, Grantee shall cause an audited financial statement to be prepared, and made available for review, for its most recently completed fiscal year, together with the related opinion of the Independent Certified Public Accountant who certified such audited financial statement. The Grantee shall make the audited financial statement and related opinion available for the review by the Department, or its designee, at the local office of Grantee. If Grantee is a subsidiary of another corporation, Grantee shall provide the audited financial statement of such parent corporation and need only provide a copy of the financial statement of Grantee utilized in the preparation of the audited financial statement of the parent corporation. Notwithstanding, the foregoing, if Grantee and any company which is within a "controlled group of corporations" with Grantee (within the meaning of 26 U.S.C. Section 1563) have, in the aggregate, 15 or fewer full time employees; and Grantee petitions the Director that the cost of an audited financial statement would pose an undue hardship; then Director may waive the requirement to provide an audited financial statement and may, at Department expense, engage an auditor of his/her choice to conduct a financial audit.

Adopted Ordinance #3670 (1996); Amended Ordinance #3673 (1996);

**46.087 County Right of Audit.**

Grantee shall make its subscriber base and business, operational and financial records available to the Department, or its designee, for audit at reasonable times for purposes relevant to review of performance and rate adjustment issues relevant to the Grantee's Franchise Agreement. In the event an audit is undertaken and shows that the Franchise Fee paid by Grantee to the County (relative to any period of time in excess of three months) has been understated by at least \$50,000 or two percent (2%), whichever is less, then Grantee shall reimburse County for the cost of such audit and shall, in addition, pay the County the amount of the understated Franchise Fee, plus simple interest on such understated amount at the rate of ten percent (10%) per annum from the date originally due until paid.

Adopted Ordinance #3670 (1996);